

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 589 – HB 696

April 20, 2015

**SUMMARY OF ORIGINAL BILL:** Requires major procurement contracts between the state and a vendor to contain a provision that the vendor and the vendor's subcontractors shall collect and remit sales and use taxes on taxable sales of goods and services in connection with such contract. Authorizes a vendor to terminate a major procurement contract with a state agency that does not include this provision. Requires the vendor to include the same provision in a contract with a subcontractor and to provide a copy of such contract to the appropriate state agency. Authorizes a state agency to terminate a major procurement contract with a vendor who does not include such provision in a contract with a subcontractor. Authorizes a subcontractor to terminate a contract with a vendor who does not include such provision. Defines "major procurement contract" as any good or service costing more than \$75,000, including major advertising contracts, annuity contracts, consulting services, equipment, and other products and services unique to the functions performed by the state agency, but not including materials, supplies, equipment, and services common to the ordinary operations of the state agency.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

**SUMMARY OF AMENDMENT (006639):** Deletes all language after the enacting clause. Requires major procurement contracts between a state governmental entity and a vendor to contain a provision that the vendor and the vendor's subcontractors shall collect and remit sales and use taxes on sales of goods and services made by the vendor or the vendor's subcontractor. Requires the vendor to include the same provision in a contract with a subcontractor. Defines "major procurement contract" as any good or service costing more than \$75,000, including major advertising contracts, annuity contracts, consulting services, equipment, and other products and services unique to the functions performed by the state governmental entity, but not including materials, supplies, equipment, and services common to the operations of any ordinary business. Defines "retailer" as a person or entity that sells goods or services on behalf of a state governmental entity. Defines "state governmental entity" as a state agency, department, board or commission, or a public corporation or quasi-public instrumentality that performs essential public functions entrusted to it by the State. Defines "vendor" as a person or entity that provides or proposes to provide goods or services to the state governmental entity pursuant to a major procurement contract, but does not include an employee of the state governmental entity, retailer, or state governmental entity.

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## **FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:**

### **Unchanged from the original fiscal note.**

Assumptions for the bill as amended:

- Pursuant to the Central Procurement Office (CPO) Contracting Manual, Contract Models and Templates, the contract template includes the following language:  
“Tennessee Department of Revenue Registration. The contractor shall comply with all applicable registration requirements contained in Tenn. Code Ann. § 67-6-601 – 608. Compliance with applicable registration requirements is a material requirement of this contract.”
- The CPO will draft a mandatory contract clause for use in all applicable contracts. The CPO’s Compliance Team will conduct random compliance reviews on those contracts to ensure inclusion of the mandatory clause.
- According to the CPO, the proposed legislation does not impact the CPO’s existing laws, rules, or policies regarding procurements and will not have a fiscal impact on the Department.
- The Department of Revenue assumes that vendors and their subcontractors are already collecting and remitting sales and use tax and the proposed bill will result in little or no increase in sales tax collected.

## **CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.



Jeffrey L. Spalding, Executive Director

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